

## REMARKS

Claims 1 to 12 are pending in the above-referenced application.

Reconsideration is respectfully requested based on the following.

With respect to page two (2) of the Office Action, claims 1 to 12 were rejected under 35 U.S.C. § 102(b) as anticipated by JP 10-329681.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejections may not be agreed with, to facilitate matters, and as explained above, the claim 6 feature providing for redistribution of the retarding force to energy-absorbing components has been included in claim 1. This makes it plain that the redistribution of the retarding force for energy recuperation only occurs in straight-ahead driving and not in cornering. A corresponding description is disclosed in the present application.

In particular, claim 1 as presented now provides the features in which *the suitable measure further includes a redistribution of the retarding force of at least one wheel brake to other vehicle brakes of the vehicle*, and in which *for the redistribution of the retarding force to energy-absorbing components, a displacement of the braking force distribution from the wheel brakes of a non-driven axle to the wheel brakes of a driven axle is performed*. It is respectfully submitted that any review of the Japanese reference makes plain that it does not

identically describe (or even suggest) these features, so that claim 1 as presented is allowable, as are its dependent claims.

Claim 2 has been amended to reflect the change to claim 1. Approval and entry are respectfully requested.

As further regards dependent claim 6, since its features have been included in claim 1, it has been rewritten to provide the feature in which for a detection of cornering, no energy recuperation is performed. This can occur, for example, as a function of the transversal acceleration, the yaw rate and the steering angle. Corresponding disclosures are found in the present application. In short, the setting of an energy recuperation on straight-ahead driving or a corresponding dependence of the setting on the transversal acceleration, the yaw rate and the steering angle, as provided for in the context of the claimed subject matter is simply not identically described (or even suggested) by the reference relied upon. It is respectfully submitted that any review of the Japanese reference makes plain that it does not identically describe (or even suggest) these features, so that claim 6 as presented is allowable for these further reasons.

Accordingly, claim 1 as presented, and its dependent claims 2 to 6 are allowable.

Claim 7 includes features like those of claim 1 as presented, and is therefore allowable for essentially the same reasons, as are its dependent claims 8 to 12. Claims 8 and 12 have been rewritten like claims 2 and 6, and are therefore allowable for essentially the same further reasons as claims 2 and 6.

Accordingly, claims 1 to 12 are allowable.

With respect to page three (3), claims 1 to 12 were rejected under 35 U.S.C. § 102(b) as anticipated by Kade et al., U.S. Patent No. 5,511,859.

While the rejections may not be agreed with, to facilitate matters, and as explained above, the claim 6 feature providing for redistribution of the retarding force to energy-absorbing components has been included in claim 1. This makes it plain that the redistribution of the retarding force for energy recuperation only occurs in straight-ahead driving and not in cornering. A corresponding description is disclosed in the present application.

In particular, claim 1 as presented now provides the features in which *the suitable measure further includes a redistribution of the retarding force of at least one wheel brake to other vehicle brakes of the vehicle, and in which for the redistribution of the retarding force to energy-absorbing components, a displacement of the braking force distribution from the*

*wheel brakes of a non-driven axle to the wheel brakes of a driven axle is performed.* It is respectfully submitted that any review of the “Kade” reference makes plain that it does not identically describe (or even suggest) these features, so that claim 1 as presented is allowable, as are its dependent claims.

Claim 2 has been amended to reflect the change to claim 1. Approval and entry are respectfully requested.

As further regards dependent claim 6, since its features have been included in claim 1, it has been rewritten to provide the feature in which for a detection of cornering, no energy recuperation is performed. This can occur, for example, as a function of the transversal acceleration, the yaw rate and the steering angle. Corresponding disclosures are found in the present application. In short, the setting of an energy recuperation on straight-ahead driving or a corresponding dependence of the setting on the transversal acceleration, the yaw rate and the steering angle, as provided for in the context of the claimed subject matter is simply not identically described (or even suggested) by the reference relied upon. It is respectfully submitted that any review of the “Kade” reference makes plain that it does not identically describe (or even suggest) these features, so that claim 6 as presented is allowable for these further reasons.

Accordingly, claim 1 as presented, and its dependent claims 2 to 6 are allowable.

Claim 7 includes features like those of claim 1 as presented, and is therefore allowable for essentially the same reasons, as are its dependent claims 8 to 12. Claims 8 and 12 have been rewritten like claims 2 and 6, and are therefore allowable for essentially the same further reasons as claims 2 and 6.

Accordingly, claims 1 to 12 are allowable.

It is therefore respectfully submitted that claims 1 to 12 are allowable.

**Conclusion**

It is therefore respectfully submitted that all of claims 1 to 12 are allowable. It is therefore respectfully requested that the rejections be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is therefore respectfully requested.

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Respectfully submitted,

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